

Matthew Franklin Jaksa (CA State Bar No. 248072)  
HOLME ROBERTS & OWEN LLP  
560 Mission Street, 25<sup>th</sup> Floor  
San Francisco, CA 94105-2994  
Telephone: (415) 268-2000  
Facsimile: (415) 268-1999  
Email: matt.jaksa@hro.com

Attorneys for Plaintiffs,  
LAFACE RECORDS LLC; ELEKTRA  
ENTERTAINMENT GROUP INC.; UMG  
RECORDINGS, INC.; and WARNER  
BROS. RECORDS INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

LAFACE RECORDS LLC, a Delaware limited  
liability company; ELEKTRA  
ENTERTAINMENT GROUP INC., a Delaware  
corporation; UMG RECORDINGS, INC., a  
Delaware corporation; and WARNER BROS.  
RECORDS INC., a Delaware corporation,

Plaintiffs,

v.

JENNIFER LYNN GLASS,

Defendant.

CASE NO. 4:07-cv-04847-SBA

Honorable Sandra B. Armstrong

**FIRST AMENDED COMPLAINT FOR  
COPYRIGHT INFRINGEMENT**

**JURISDICTION AND VENUE**

1  
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement  
3 under the copyright laws of the United States (17 U.S.C. §101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. §1331 (federal  
5 question); and 28 U.S.C. §1338(a) (copyright).

6 3. This Court has personal jurisdiction over the Defendant, Jennifer Lynn Glass, and  
7 venue in this District is proper under 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400, because, on  
8 information and belief, the Defendant resides in this District and/or a substantial part of the acts of  
9 infringement complained of herein occurred in this District.

10 **PARTIES**

11 4. Plaintiff LaFace Records LLC is a limited liability company duly organized and  
12 existing under the laws of the State of Delaware, with its principal place of business in the State of  
13 New York.

14 5. Plaintiff Elektra Entertainment Group Inc. is a corporation duly organized and  
15 existing under the laws of the State of Delaware, with its principal place of business in the State of  
16 New York.

17 6. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the  
18 laws of the State of Delaware, with its principal place of business in the State of California.

19 7. Plaintiff Warner Bros. Records Inc. is a corporation duly organized and existing  
20 under the laws of the State of Delaware, with its principal place of business in the State of  
21 California.

22 8. Plaintiffs are informed and believe that Defendant is an individual who resided  
23 within this District at the time of the infringement complained of herein. Upon information and  
24 belief, Defendant may still be found in this District.

25 **COUNT I**

26 **INFRINGEMENT OF COPYRIGHTS**

27 9. Plaintiffs incorporate herein by this reference each and every allegation contained in  
28 each paragraph above.

1           10. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of  
2 exclusive rights under United States copyright law with respect to certain copyrighted sound  
3 recordings, including but not limited to, all of the copyrighted sound recordings on Exhibit A to this  
4 Complaint (collectively, these copyrighted sound recordings shall be identified as the "Copyrighted  
5 Recordings"). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright  
6 Registration issued by the Register of Copyrights, for which the Plaintiffs are the owners as specified  
7 on Exhibit A.

8           11. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the  
9 exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted  
10 Recordings to the public.

11           12. Much of the unlawful distribution of copyrighted sound recordings over the Internet  
12 occurs via "peer-to-peer" ("P2P") file copying networks or so-called online media distribution  
13 systems. P2P networks, at least in their most popular form, refer to computer systems or processes  
14 that enable Internet users to search for files (including audio recordings) stored on other users'  
15 computers and transfer exact copies of files from one computer to another via the Internet, which can  
16 include both downloading an exact copy of that file onto the user's own computer and distributing an  
17 exact copy of that file to other Internet users on the same P2P network. P2P networks enable users  
18 who otherwise would have no connection with, or knowledge of, each other to provide a  
19 sophisticated search mechanism by which users can locate these files for downloading and to  
20 reproduce and distribute files off of their personal computers.

21           13. Users of P2P networks who distribute files over a network can be identified by using  
22 Internet Protocol ("IP") addresses because the unique IP address of the computer offering the files  
23 for distribution can be captured by another user during a search or a file transfer. Users of P2P  
24 networks can be identified by their IP addresses because each computer or network device (such as a  
25 router) that connects to a P2P network must have a unique IP address within the Internet to deliver  
26 files from one computer or network device to another. Two computers cannot effectively function if  
27 they are connected to the Internet with the same IP address at the same time.

1           14.     Plaintiffs identified an individual using LimeWire on the P2P network Gnutella at IP  
2 address 130.212.159.167 on April 22, 2007 at 21:56:05 EDT distributing 164 audio files over the  
3 Internet. The Defendant was identified as the individual responsible for that IP address at that date  
4 and time. Plaintiffs are informed and believe that as of April 22, 2007, Defendant, without the  
5 permission or consent of Plaintiffs, had continuously used, and continued to use, a P2P network to  
6 download and/or distribute to the public the Copyrighted Recordings. Exhibit A identifies the date  
7 and time of capture and a list of Copyrighted Recordings that Defendant has, without the permission  
8 or consent of Plaintiffs, downloaded and/or distributed to the public. Through Defendant's  
9 continuous and ongoing acts of downloading and/or distributing to the public the Copyrighted  
10 Recordings, which acts Plaintiffs believe to have been ongoing for some time, Defendant has  
11 violated Plaintiffs' exclusive rights of reproduction and distribution. Defendant's actions constitute  
12 infringement of Plaintiffs' copyrights and exclusive rights under copyright.

13           15.     In addition to the sound recordings listed on Exhibit A, Plaintiffs are informed and  
14 believe that Defendant has, without the permission or consent of Plaintiffs, continuously downloaded  
15 and/or distributed to the public additional sound recordings owned by or exclusively licensed to  
16 Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of infringement are  
17 ongoing.

18           16.     Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on  
19 each respective album cover of each of the sound recordings identified in Exhibit A. These notices  
20 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.  
21 These published copies were widely available, and each of the published copies of the sound  
22 recordings identified in Exhibit A was accessible by Defendant.

23           17.     Plaintiffs are informed and believe that the foregoing acts of infringement have been  
24 willful and intentional, in disregard of and indifference to the rights of Plaintiffs.

25           18.     As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights  
26 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) for  
27 Defendant's infringement of each of the Copyrighted Recordings. Plaintiffs further are entitled to  
28 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

19. The conduct of Defendant is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing Plaintiffs' copyrights, and ordering Defendant to destroy all copies of sound recordings made in violation of Plaintiffs' exclusive rights.

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

1. For an injunction providing:

"Defendant shall be and hereby is enjoined from directly or indirectly infringing Plaintiffs' rights under federal or state law in the Copyrighted Recordings and any sound recording, whether now in existence or later created, that is owned or controlled by Plaintiffs (or any parent, subsidiary, or affiliate record label of Plaintiffs) ("Plaintiffs' Recordings"), including without limitation by using the Internet or any online media distribution system to reproduce (i.e., download) any of Plaintiffs' Recordings, to distribute (i.e., upload) any of Plaintiffs' Recordings, or to make any of Plaintiffs' Recordings available for distribution to the public, except pursuant to a lawful license or with the express authority of Plaintiffs. Defendant also shall destroy all copies of Plaintiffs' Recordings that Defendant has downloaded onto any computer hard drive or server without Plaintiffs' authorization and shall destroy all copies of those downloaded recordings transferred onto any physical medium or device in Defendant's possession, custody, or control."

2. For statutory damages for each infringement of each Copyrighted Recording pursuant to 17 U.S.C. § 504.

3. For Plaintiffs' costs in this action.

4. For Plaintiffs' reasonable attorneys' fees incurred herein.

5. For such other and further relief as the Court may deem just and proper.

Dated: February 29, 2008

HOLME ROBERTS & OWEN LLP

By

  
MATTHEW FRANKLIN JAKSA

Attorney for Plaintiffs

WARNER BROS. RECORDS INC.; UMG RECORDINGS, INC.; LAFACE RECORDS LLC; BMG MUSIC; INTERSCOPE RECORDS; and CAPITOL RECORDS, INC.

**EXHIBIT A**

**JENNIFER LYNN GLASS**

**IP Address:** 130.212.159.167 2007-04-22 21:56:05 EDT

**CASE ID#** 126431541

**P2P Network:** Gnutella

**Total Audio Files:** 164

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
LaFace Records LLC	Usher	U Remind Me	8701	307-207
Elektra Entertainment Group Inc.	Eagles	Heartache Tonight	The Long Run	13-182
UMG Recordings, Inc.	Ludacris	Catch Up	Back For the First Time	289-433
Elektra Entertainment Group Inc.	Eagles	Hotel California	Hotel California	N38950
UMG Recordings, Inc.	Ludacris	Area Codes	Word of Mouf	304-605
Warner Bros. Records Inc.	Red Hot Chili Peppers	Suck My Kiss	Blood Sugar Sex Magik	135-276
LaFace Records LLC	Usher	My Way	My Way	257-730